

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.1052 of 2016

ORDER:

Heard Sri Kowturu Vinaya Kumar, learned counsel for petitioners and Sri Swaroop Onilla, learned counsel for respondent.

2) The respondent/plaintiff filed O.S.No.118 of 2015 before the Agent to the Government (District Collector) Khammam against the revision petitioners/defendants seeking perpetual injunction in respect of plaint schedule property comprising 7 acres of land in Sy.No.161/E/1 situated in Ganugapadu Revenue village of Chandrugonda Mandal, Khammam District. The respondent/plaintiff in para-8 of the plaint has mentioned as if the schedule property is situated in agency area and therefore the Agent to Government i.e. District Collector has jurisdiction to try the suit.

3) Now, the instant revision petition is filed by petitioners/defendants on the main contention that the village Ganugapadu wherein the suit property is situated is not declared as Tribal area/Schedule area under Notification No.2 dt.16.11.1949 or under the Presidential Order in C.O.No.26 dt.07.12.1950 (Scheduled Areas (Part-B) States Order-1950) and therefore, the suit schedule property shall be deemed to be situated in plain areas rather than in schedule areas in which case the Agent to Government i.e. District Collector, Khammam will not have jurisdiction to try the suit. It is admitted by learned

counsel by petitioners that so far they have not filed written statement and raised the jurisdictional objection before the trial Court.

4) In that view of the matter, it is considered apposite to direct the revision petitioners to approach the trial Court and take all the pleas that are legally available to them including the plea of want of jurisdiction before the trial Court and invite the order on merits.

5) Therefore, the petitioners/defendants are directed to approach the trial Court and file their written statement raising *inter alia*, the jurisdictional plea, within two(2) months from the date of this order, in which case, the trial Court shall frame a preliminary issue relating to jurisdiction and after hearing both sides pass an order on merits within two months from the date of filing written statement by the petitioners/defendants.

6) This CRP is disposed of accordingly. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE U.DURGA PRASAD RAO

Dt: 29.07.2016

Murthy